

Amendments to House Bill No. 397  
1st Reading Copy

For the House Taxation Committee

Prepared by Jeff Martin  
March 22, 2011 (6:51am)

1. Title, page 1, line 4.

**Strike:** "EDUCATION"

2. Title, page 1, line 5.

**Strike:** "EXPENSES"

**Insert:** "TUITION"

**Following:** "CREDIT;"

**Insert:** "PROVIDING A PHASEOUT OF THE CREDIT BASED ON INCOME;  
PROVIDING THAT THE INCOME AMOUNTS ARE ADJUSTED FOR INFLATION;"

3. Title, page 1, line 6.

**Strike:** "DEFINING "EDUCATION EXPENSES""

**Insert:** "REQUIRING AN INFORMATION RETURN FROM A QUALIFIED SCHOOL  
OR PROGRAM"

4. Page 1, line 12.

**Following:** "education"

**Insert:** "-- definitions"

5. Page 1, line 13.

**Following:** "education"

**Strike:** "expenses"

**Insert:** "tuition"

**Following:** "for"

**Strike:** "a dependent child"

**Insert:** "an eligible student"

6. Page 1, line 14.

**Following:** "form"

**Insert:** "for each eligible student"

7. Page 1, line 15.

**Strike:** "2"

**Insert:** "3"

**Following:** "[section 2]."

**Insert:** "Only one credit for each eligible student may be claimed  
in a tax year under this section."

8. Page 1, line 16.

**Following:** "(2)"

**Strike:** "Education expenses that qualify"

**Insert:** "Tuition that qualifies"

**Following:** "section"  
**Strike:** "are amounts"  
**Insert:** "is an amount"

9. Page 1, line 17.  
**Strike:** "a dependent"  
**Insert:** "an eligible student"

10. Page 1, line 18.  
**Following:** "qualifying"  
**Strike:** "education expenses"  
**Insert:** "tuition"

11. Page 1, line 19.  
**Following:** the first "\$750"  
**Insert:** "for each eligible student"  
**Following:** "qualifying"  
**Strike:** "education expenses"  
**Insert:** "tuition"

12. Page 1, line 20.  
**Following:** "which"  
**Strike:** "those expenses have"  
**Insert:** "the tuition has"

13. Page 1, line 22.  
**Following:** "\$1,400"  
**Insert:** "for each eligible student"

14. Page 1, line 23.  
**Following:** "\$2,000"  
**Insert:** "for each eligible student"

15. Page 1, line 24.  
**Following:** "\$2,300"  
**Insert:** "for each eligible student"

16. Page 1, line 25.  
**Following:** "\$2,600"  
**Insert:** "for each eligible student"

17. Page 1, following line 25.  
**Insert:** "(4) The credit may not be claimed for a child who is  
home-schooled."  
**Renumber:** subsequent subsections

18. Page 1, line 27.  
**Following:** "Of the"  
**Insert:** "total"

19. Page 2, lines 1 through 22.

**Strike:** subsection (6) in its entirety

**Insert:** (7) (a) For an individual whose household income is \$75,000 or more but less than \$97,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Household Income	Percentage of Credit Allowed
\$75,000 - \$86,000	50%
\$86,001 - \$96,999	25%
\$97,000 or more	0%

(b) For tax years beginning after December 31, 2011, the department shall, by November 1 of each year, multiply the household income amounts contained in subsection (7)(a) by the inflation factor for that tax year and round the product to the nearest \$100. The resulting adjusted household income amounts are effective for that tax year and must be used in calculating the tax credit allowed under this section.

(8) As used in [sections 1 and 2], the following definitions apply:

(a) "Eligible student" means a student who is a Montana resident and is eligible to enroll in an elementary, middle school, or secondary school program in Montana and who:

(i) is attending a nonpublic school or entering a nonpublic school or transferring to a nonpublic school from a public school; or

(ii) is currently placed or during the previous fiscal year was placed in foster care under the supervision of the state and is eligible to attend a nonpublic school.

(b) "Income" means income as defined in 15-30-2337(9)(a). Income includes all income received by all individuals of the household while they are members of the household.

(c) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 2011.

(d) "Qualified school or program" means a school or program that:

(i) is a nonpublic elementary school or secondary school that is located in this state or is a public or private school located in the United States that provides distance learning instruction;

(ii) is accredited or has applied for accreditation or is provisionally accredited by the board of public education, northwest accreditation association, or other nationally recognized accreditation association;

(iii) is not a home school as provided in 20-5-109;

(iv) administers a nationally recognized normative assessment test and makes the results available to parents; and

(v) satisfies the health and safety requirements prescribed

by law for private schools in this state."

20. Page 2.

**Following:** line 22

**Insert:** "NEW SECTION. **Section 2. Education tax credit -- information return.** (1) Each qualified school or program, as defined in [section 1], shall make an information return to the department concerning the credit allowed under [section 1]. The return must show the amount of the tuition paid by an individual for each eligible student and must include the individual's name, address, and social security number or taxpayer identification number. The qualified school or program shall provide the return to the individual making the tuition payment.

(2) The return must be made under rules adopted by the department and in the form and manner prescribed by the department."

**Renumber:** subsequent sections

21. Page 2, line 26.

**Following:** "[section 1]"

**Insert:** ", "

**Strike:** "and"

22. Page 2, lines 27 and 28.

**Following:** "enroll"

**Strike:** the first "a" through "school" on line 28

**Insert:** "an eligible student in a qualified school or program, and must be available in electronic format on the superintendent of public instruction's website"

23. Page 3, lines 1 and 2.

**Strike:** "clerk of the" through "who" on line 2

**Insert:** "county superintendent by May 10. The county superintendent"

24. Page 3, line 3.

**Strike:** "dependent children"

**Insert:** "students"

25. Page 3, line 5.

**Following:** "and"

**Strike:** "may not be included in the"

**Insert:** ", if"

26. Page 3, lines 5 and 6.

**Following:** "averaging"

**Strike:** "pursuant to 20-9-311" on lines 5 and 6

**Insert:** "is used, must also be subtracted from the previous 2 years' counts"

27. Page 3, line 7.

**Following:** "to"

**Insert:** ":

(a)"

28. Page 3, line 8.

**Following:** "[section 1]"

**Insert:** "; and"

(b) the named qualified school or program for the purpose of the information return required by [section 2]"

29. Page 3, line 18.

**Following:** "of"

**Insert:** "eligible"

30. Page 3, line 19.

**Strike:** "2"

**Insert:** "3"

31. Page 7, line 21.

**Insert:** "(15) (a) Except as provided in subsection (15)(b), for the purpose of determining ANB under subsection (1) or (13), eligible students who are enrolled in a qualified school or program, for whom tax credits are being received under [sections 1 and 2], and who were previously enrolled in a public school must be subtracted from the current year count, and if 3-year averaging is used, they must also be subtracted from the previous 2 years' counts.

(b) Eligible students referred to in subsection (15)(a) who reside in the public school district in which they were previously enrolled may not be subtracted from ANB counts in any school year during which they reside in the district if the subtraction decreases the ANB count to less than:

- (i) 20 students in kindergarten or grade 1 or 2;
- (ii) 28 students in grade 3 or 4;
- (iii) 30 students in each of the grades 5 through 8; or
- (iv) 50 students in each of the grades 9 through 12."

32. Page 7.

**Following:** line 24

**Insert:** "(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 26, and the provisions of Title 15, chapter 30, part 26, apply to [section 2]."

**Renumber:** subsequent subsection

33. Page 7, line 25.

**Strike:** "2"

**Insert:** "3"